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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,843	01/15/2004	Mike A. Clark	PHOE-0188	5090
23377 7590 05/30/2007 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER NAFF, DAVID M	
			ART UNIT 1657	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/757,843	CLARK, MIKE A.	
	Examiner	Art Unit	
	David M. Naff	1657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A response of 3/8/07 presented arguments and filed a terminal disclaimer to overcome an obvious double patenting rejection.

The double patenting rejections are withdrawn.

5 Claims examined on the merits are 23-38, which are all claims in the application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

10 Claim 24 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 23. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial
15 duplicate of the allowed claim. See MPEP § 706.03(k).

The only difference in the methods of claims 23 and 24 is the preamble, and the preambles do not change the method steps claimed. Enhancing circulating half-life in the preamble of claim 23 will be inherent when enhancing tumoricidal activity in the preamble of claim
20 24, and enhancing tumoricidally activity in claim 24 will be inherent when enhancing circulating half-life in claim 23. It is suggested claim 23 be deleted.

Response to Arguments

The remarks of the response urge that the preamble of claim 23
25 recites a method of enhancing the circulating half-life of arginine

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diminase, whereas the preamble of claim 24 recites a method of enhancing the tumoricidal activity of arginine deiminase. However, the steps of the claims are the same, and the difference in preambles does not require different processes. Enhancing half-life will inherently enhance tumoricidal activity, and the converse. There is no difference in the scope of the steps in the methods required by claims 23 and 24. A difference in scope of the claim preambles does not make the scope of the methods different unless the difference in preambles requires different steps to be performed in each method. In the present case, the difference in preambles does not require different steps in the methods.

Claim Objections

Claim 35 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 25. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The only difference in the methods of the claims is in the preambles. Treating a tumor as in the preamble of claim 25 will be inherent when treating and inhibiting metastases in the preamble of claim 35, and treating and inhibiting metastases in claim 35 will be inherent when treating a tumor in claim 25. It is suggested claim 35 be deleted.

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Response to Arguments

The type of response set forth above applies to the argument traversing this objection.

Claim Rejections - 35 USC § 112

5 Claims 23 and 24 are confusing by requiring the same methods except for the preamble of claim 23 requiring enhancing circulating half-life, and the preamble of claim 34 requiring enhancing tumoricidal activity. It is not seen how the same method can enhance circulating half-life without enhancing tumoricidal activity, or the
10 converse. Similarly, it is not seen how the method of claim 25 that has the same steps as the method of claim 35 can treat a tumor and not treat and inhibit metastases as required by the method of claim 35, or the converse.

Response to Arguments

15 The response urges that the claims must be interpreted in view of the specification. However, the specification fails to set forth how the steps of the methods differ in with respect to the difference in preambles of the claims.

Conclusion

20 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date
25 of this final action and the advisory action is not mailed until after

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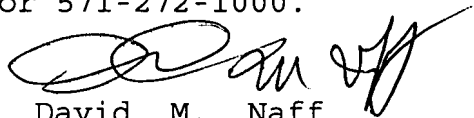
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 571-272-0920. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David M. Naff
Primary Examiner
Art Unit 1657

DMN

15 5/29/07